

**DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES**

Bureau of Human Resources

May 19, 2010

**HUMAN RESOURCES MEMORANDUM 2-10**

**TO:** All Agency Heads, Agency Human Resource/EEO Representatives

**SUBJECT:** Retirement Plan Options and 5% Salary Option Available To Confidential Employees Who Are Elected, Who Are Appointed For A Fixed Term, or Who "Serve At The Pleasure Of" Their Appointing Authority

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By provision of Maine State Retirement Law, membership in the State Employee and Teacher Retirement Program is optional for elected officials or officials appointed for a fixed term *(by Opinion of the Maine Attorney General 81-63, the words "fixed term" include employees who are appointed by and serve at the pleasure of officials with fixed terms).*

In order to comply with federal law, State of Maine employees who are employed in one of the subject categories must be offered the following options upon employment:

1. to join or not join the Maine Public Employees Retirement System **OR**
2. to join a federally approved retirement plan.

The option to join or opt out of the Maine Public Employees Retirement System (MainePERS) is a **one-time irrevocable** choice which must remain effective **for all subsequent employment** whenever the employee is employed in a position with optional membership in Maine State Government.

If membership in the MainePERS is selected, the employee must be offered the option of either:

- a) partial state payment of the employee's retirement contribution **OR**
- b) receive a 5% salary premium *(employee pays their own contribution).*

If membership in the MainePERS is not selected, the employee will be paid a 5% salary premium **AND** one of the following federally approved retirement plan options must be selected:

- a) join the federal Social Security system **OR**
- b) join one of the state's deferred compensation plans *(employee must contribute at least 7.5% of their salary).*

Employees with optional membership exercise their option at the time they are hired. Pursuant to Chapter 453, Public Law 1981, these employees (and ***only*** these employees) are provided the additional option of either a 5% salary premium **OR** state payment of part of the employee's contribution to the MainePERS. This law requires the employee to elect the option of either a 5% salary premium or partial state-paid retirement ***at the time of appointment*** (*Chapter 739, Public Law 1987 includes this same requirement*). Therefore, once the option of the 5% salary premium or partial state-paid retirement is elected, this option must be continued for the duration of the employee's appointment.

By requirement of federal law, every employee must be a member of a federally approved retirement plan. Therefore, if employees for whom membership in the MainePERS is optional do not elect membership in the MainePERS at the time of appointment, they must participate in one of the alternative plans.

In accordance with the retirement plan requirements of state and federal law, the Bureau of Human Resources has updated the form PER 117 (provided with this Memorandum and on our website at [www.maine.gov/bhr](http://www.maine.gov/bhr)). This form must be processed at time of appointment/reappointment for all employees who are appointed/reappointed in the subject categories.

Classified employees covered by collective bargaining and classified confidential employees must be members of the MainePERS and are not eligible for the 5% salary premium option.

Generally, unclassified confidential employees "serve at the pleasure of" their appointing authority and are eligible for the retirement plan and 5% salary options specified by this Memorandum. If statutory language specific to the position, however, provides that the employee may only be dismissed for cause, then the employee must be a member of the MainePERS and is not eligible for the 5% salary option or an alternative retirement plan.

Please make every effort to become familiar with the information in this Memorandum and any special statutes for your department or agency's positions so that you can provide assistance to new hires and ensure that they are fully informed of the options available to them.

Technical questions concerning membership in the MainePERS or the Social Security system should be directed to the Maine Public Employees Retirement System.

**S / Alicia Kellogg**

Alicia Kellogg, Director  
Bureau of Human Resources

Attachment - PER 117 (Retirement Plan & Benefit Options Form)

# RETIREMENT PLAN & BENEFIT OPTIONS

## STATE OF MAINE - BUREAU OF HUMAN RESOURCES

NAME	SOCIAL SECURITY #
DEPARTMENT	CLASS TITLE

In accordance with Title 5 MRSA, §17652 (and by Opinion of the Maine Attorney General 81-63), membership in the Maine Public Employees Retirement System (MainePERS) is optional for employees who:

- (a) are elected or appointed for a fixed term; or
- (b) are appointed to "serve at the pleasure of" the appointing authority.

Maine law requires that these employees must make an election at the time of original hire whether to be a member of the MainePERS. Once an election is made, the election is irrevocable with respect to all subsequent employment with the same employer in a position with optional membership.

**STEP 1** (complete only if you have never exercised this option in the past):

I understand that I must elect whether to join the MainePERS. I also understand that this election is irrevocable with respect to all subsequent employment with the State in a position with optional membership. Therefore, I elect the following (check only one):

- ☐ to join the MainePERS (go to STEP 2-A below).
- ☐ to not join the MainePERS (go to STEP 2-B below).

**STEP 2-A** (complete only if you have elected to join the MainePERS now or any time in the past):

I understand that I may elect to have the State pay a portion of my contribution to the MainePERS (currently that portion is 6.5% of 7.65%), or I may elect to be paid a 5% salary premium and pay my own contribution to the MainePERS (in accordance with Public Law 1981, Chapter 453). I also understand that this election must remain in effect for the duration of my appointment. Therefore, I elect the following (check only one):

- ☐ to be paid from the standard salary schedule for my classification, and to have the State pay a portion of my contribution to the MainePERS (currently the portion paid is 6.5% of 7.65%; the remaining 1.15% will be deducted from my biweekly pay and remitted to the MainePERS).
- ☐ to be paid a 5% salary premium for my classification, and to pay my own contribution to the MainePERS (currently 7.65%).

**NOTE:** Constitutional Officer positions must be paid the 5% salary premium by law (Title 3, §162-B).

**STEP 2-B** (complete only if you elected to not join the MainePERS):

I understand that I must join a federally approved retirement plan. I understand that I will be paid a 5% salary premium for my classification and that I must pay my own retirement contributions. Therefore, I elect the following (check only one):

- ☐ to join the federal Social Security system.
- ☐ to join one of the State's deferred compensation plans and to contribute at least 7.5% of my salary to that plan.

\_\_\_\_\_  
(Employee's Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Employee Copy

\_\_\_\_\_  
Controller's Office/BHR Copy

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MainePERS Copy